

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #4	CCRB Case #: 202003698	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 9:15 PM	Location of Incident: Outside the 88th Precinct Stationhouse at Dekalb Avenue and Steuben Street	Precinct: 88	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 9:54 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 9:54 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Yvener Cesar	05137	960352	009 PCT
2. CPT Ryon Malcolm	00000	925654	088 PCT
3. CCA Jeffrey Maddrey	00000	899501	C A B
4. COD Terence Monahan	00000	876747	CD OFF

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	
B. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	
C. An officer	Force: An officer struck § 87(2)(b) [REDACTED] with a baton.	

Case Summary

On May 30, 2020, § 87(2)(b) filed this complaint with the CCRB using the online website. § 87(2)(b) filed this complaint on behalf of herself and § 87(2)(b) (**01 Board Review**).

On May 29, 2020, at approximately 9:15 PM, § 87(2)(b) and § 87(2)(b) were participating in a protest against police brutality in the vicinity of the 88th Precinct stationhouse in Brooklyn. An officer pushed § 87(2)(b) to the ground and kicked her (**Allegation A and Allegation B, force: § 87(2)(g)**). An officer hit § 87(2)(b) in the head with a baton (**Allegation C, force: § 87(2)(g)**).

The CCRB obtained cell phone video footage of this incident (**02 Board Review**).

No arrests were made or summons issued as a result of this incident.

Findings and Recommendations

Allegation (A) Force: An officer used force against § 87(2)(b)

Allegation (B) Force: An officer used force against § 87(2)(b)

Allegation (C) Force: An officer struck § 87(2)(b) with a baton.

Known Facts and General Descriptions

§ 87(2)(b) was uncooperative with the investigation (**19 Board Review**).

§ 87(2)(b) (**03 Board Review**) stated that on May 30, 2020, at approximately 9:15 PM, she and § 87(2)(b) were participating in a protest against police brutality outside of the 88th Precinct stationhouse in Brooklyn. § 87(2)(b) and § 87(2)(b) had marched to the 88th Precinct stationhouse from the Barclays Center. A group of approximately thirty police officers formed two lines, one in front of the other, to prevent the protesters from passing.

§ 87(2)(b) organized a line of white protesters to form an opposing line across Dekalb Avenue, to protect protesters of color. § 87(2)(b) used a megaphone to try and communicate over the noise of the protest. The line formed approximately five minutes later. § 87(2)(b) and the other protesters put their hands in the air and chanted, “Hands up, don’t shoot,” and, “Peaceful protest.”

Almost immediately after, the two lines of officers started advancing forward towards the protesters. § 87(2)(b) continued chanting, “Peaceful protest,” and stayed still, not backing up. § 87(2)(b) and § 87(2)(b) were surrounded by one line of police in front of them, and one behind. Other protesters noticed that they were also surrounded and began to panic and run. Police officers ran at protesters and ran after protesters. § 87(2)(b) told § 87(2)(b) that they should run and § 87(2)(b) said that they should continue to retreat backwards, peacefully. § 87(2)(b) and § 87(2)(b) resumed walking backwards with their hands up in the air. § 87(2)(b) saw PO1, PO2, and PO3 approaching her and § 87(2)(b) PO1 said, “Get that thing, rip it out of her hands, rip it apart.” PO2 and PO3 rushed towards § 87(2)(b) and tried to take her megaphone. § 87(2)(b) was behind § 87(2)(b) holding on to the other side of the megaphone. After a couple of seconds § 87(2)(b) and § 87(2)(b) were able to pull the megaphone away from the officers.

Either PO2 and PO3 shoved § 87(2)(b) by her shoulders, with such force that § 87(2)(b)

“propelled” backwards and fell to the ground. § 87(2)(b) sustained a large laceration to her right knee, extending approximately six inches down her leg. § 87(2)(b)'s head and upper body did not hit the ground because § 87(2)(b) was behind her and, she fell on his legs and feet. Either PO2 and PO3 kicked § 87(2)(b) trying to “sweep” her towards the sidewalk. § 87(2)(b) was kicked approximately five times in her stomach and sides of her body and sustained bruising. At some point while § 87(2)(b) was on the ground, either PO2 or PO3 hit § 87(2)(b) in the head with a baton and he began bleeding from his head. Other protesters saw what PO2 and PO3 were doing and began rushing towards them. § 87(2)(b) pulled § 87(2)(b) up from the ground and they ran down Dekalb Avenue to Vanderbilt Avenue, and sat on the stairs of the Queen of All Saints Church.

At :32 of the cellphone video, § 87(2)(b) is pictured walking backwards. She has blond hair and is wearing black shorts and a black top. § 87(2)(b) is pictured crouching behind her. An officer shoves § 87(2)(b) to the ground at :33. The officer is wearing a navy uniform and a helmet with a face shield. At :35, § 87(2)(b) is shown pulling § 87(2)(b) up from the ground by her arm. At :36 a large number of police officers rush towards the protesters. The alleged force against § 87(2)(b) is not pictured in the video (**02 Board Review**).

§ 87(2)(b) and § 87(2)(b) provided photographs to the investigation showing a laceration to § 87(2)(b)'s leg and a laceration to § 87(2)(b) head (**17 Board Review, 18 Board Review**).

Body Worn Camera

A request to the NYPD Legal Bureau yielded negative results for BWC footage related to this incident (**04 Board Review**).

CCRB cases 202003706, 202003737 and 202003726 happened at the same general time and in the same general location as this incident. Requests to the NYPD Legal Bureau for BWC footage for these cases returned 27 videos. These videos do not picture this incident.

NYPD Documents Reviewed

88th Precinct Event documents from May 29, 2020 list multiple jobs as occurring in the vicinity of the 88th Precinct stationhouse. There are multiple calls for additional units to respond to a large crowd, objects being thrown at officers, and vandalism and property damage (**08 Board Review**). The Resource Recap Log also lists multiple jobs of the same nature (**05 Board Review**).

The Patrol Borough Brooklyn North Detail Roster is 59 pages long (**07 Board Review**). The roster lists officers from numerous commands deployed throughout the Patrol Borough, including to the 88th Precinct stationhouse. The roster had many illegible pages, but from the legible information, 56 officers from numerous commands were assigned to unspecified locations in the Patrol Borough. Considering the number of officers listed on the illegible pages of the Detail Roster, as well as the police presence at the 88th Precinct stationhouse, these officers would have only accounted for a fraction of the officers who ultimately responded to the stationhouse, for which there is no documentation.

A request for TRI's for § 87(2)(b) and § 87(2)(b) yielded negative results (**06 Board Review**).

Concurrent Investigations

There are no known concurrent investigations.

Ranking Officers

NYPD Chief of Department Terence Monahan, Chief Jeffrey Maddrey of the Community Affairs Bureau, and Captain Ryan Malcolm of the 88th Precinct responded to the protest discussed in this case.

Officers Interviewed

Captain Malcolm (**09 Board Review**) stated that he requested a level two mobilization to the area of the Barclays Center to respond to a crowd of approximately 1,000 civilian protesters. A level two mobilization is when one sergeant and eight officers from every command respond to a location. There is no documentation or roster of the specific officers and their commands that responded to the level two mobilization. Protesters began to leave the Barclays Center and moved towards Fort Greene Park, and Captain Malcolm followed them. Captain Malcolm heard a protester say the crowd was going to march to the 88th Precinct Stationhouse, so he requested that the level two mobilization be moved to that location.

Captain Malcolm left Fort Greene Park and stood outside of the 88th Precinct stationhouse with a small group of approximately 25 police officers. Captain Malcolm did not know these officers' names or what commands they were from. Chief of the Community Affairs Bureau Jeffrey Maddrey, Chief of Patrol Fausto Pichardo, and Chief of Crime Control Strategies Michael Lepetri were the other high-ranking officers also present outside of the 88th Precinct stationhouse. Captain Malcolm told the police officers present to place metal barriers on Dekalb Avenue, as a way of securing the 88th Precinct stationhouse and restricting access to it. Captain Malcolm did not give any other commands to the officers about what to do when the protesters arrived.

A crowd of approximately 1,000 protesters arrived at the 88th Precinct stationhouse from Dekalb Avenue, and another crowd arrived from Classon Avenue. As it got dark, the protesters began throwing objects at officers and damaging police vehicles. On Dekalb Avenue, outside of the stationhouse, Captain Malcolm detained one individual who had damaged a police vehicle and escorted him back to the stationhouse. As Captain Malcolm entered the stationhouse, numerous additional officers with helmets and riot shields began to arrive at the location. Captain Malcolm ordered officers to push protesters from the street onto the sidewalk, though he could not recall which officers he issued this command to. Captain Malcolm did not issue any other commands regarding the use of force against protesters and stated that he would not have had the authority to do so. Captain Malcolm entered the stationhouse just before 9:00 PM, as officers began to push the crowd of protesters eastbound on Dekalb Avenue. He remained inside to supervise the mass arrests that ensued. As the Borough Commander, Chief Maddrey was the one with the authority to authorize specific types of force to disperse the crowd, though Captain Malcolm did not know if any such orders were made.

Chief Maddrey (**10 Board Review**) stated that he began the evening at a protest at the Barclays Center, but left to respond to the 88th Precinct stationhouse after receiving a telephone call from Chief Monahan, who told him that he had intelligence that protesters were going to burn the 88th Precinct stationhouse down. Chief Maddrey arrived at the 88th Precinct stationhouse at

approximately 8:30 PM. When Chief Maddrey arrived, he spoke with the 88th Precinct commanding officer, Captain Malcolm, to prepare. There was not yet protesters at the location. Chief Maddrey and approximately 20-25 officers formed a line on the DeKalb Avenue side of the stationhouse, just west of Classon Avenue.

When the group of protestors arrived and neared the stationhouse, the “front line” of the protestors charged towards the officers. Protesters also jumped on officers’ personal vehicles parked on Dekalb Avenue and threw rocks, bricks, and bottles at officers. Protesters jumped on top of police cars and began lighting police cars on fire. Protesters lit garbage cans on fire on St. James Street and Dekalb Avenue. The officers had no helmets or riot equipment and many officers sustained injuries.

Chief Maddrey radioed for additional units with riot shields to respond to the location and additional units from multiple commands responded. Chief Maddrey did not recall which units or commands responded. Chief Maddrey ordered officers to advance towards the crowd and push them back. Protesters pushed, punched, and bit officers in response. Chief Maddrey saw many officers wrestle with civilians to take them into custody, but he did not recall any specific instances of this, and did not know which specific officers did this. Chief Maddrey pushed civilians away from approaching officers who were attempting to make arrests, pulled civilians off of officers, and pulled officers up from the ground. Chief Maddrey did not use his asp to strike civilians, but officers used their batons to push civilians. Chief Maddrey did not know who these officers were. Chief Maddrey did not see any officer hit any civilian with a baton.

Chief Maddrey did not provide any specific supervisory directives to other officers because the scene was too chaotic. Chief Maddrey did not know of any paperwork or documentation listing the units and commands present at the location.

Chief of Department Terrance Monahan (**11 Board Review**) stated that while he was at the Barclays Center he learned that protestors planned to march to the 88th Precinct stationhouse and “take over a stationhouse.” Chief Pichardo and Chief Maddrey went to the 88th Precinct stationhouse to supervise that location. NYPD Operations assembled a mobilization of officers to respond to the 88th Precinct stationhouse. Chief Monahan was not present at the 88th Precinct stationhouse and did not direct any officers to use force against protestors at the location.

Captain Malcolm, Chief Maddrey, and Chief of Department Monahan were shown cellphone video footage of this incident and they all stated that they did not witness the incident and did not recognize any of the officers pictured in the video.

As of October 2020, Chief of Patrol Fausto Pichardo is no longer a member of the service and was therefore not interviewed about this incident.

Allegation Recitation and Disposition

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Squad No.: 4

Investigator: Tessa Yesselman SI Tessa Yesselman 4/9/2021
Signature Print Title & Name Date

Squad Leader: <u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>4/18/2021</u>
Signature	Print Title & Name	Date

Reviewer: _____

Signature Print Title & Name Date